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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 JULIO ALEXANDER GUZMAN-  
12 VASQUEZ,

13 Plaintiff,

14 vs.

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16 ERIC H. HOLDER, JR., *Attorney*  
17 *General of the United States*, et al,

18 Defendant.

CASE NO. 14cv1471-MMA (BLM)

**ORDER DISMISSING PETITION  
FOR WRIT OF HABEAS CORPUS  
WITH PREJUDICE**

[Doc. No. 1]

19 Petitioner Julio Alexander Guzman-Vasquez, proceeding *pro se*, has filed a  
20 Petition for Writ of Habeas Corpus (“petition”) pursuant to Title 28 of the United  
21 States Code, section 2241. *See* Doc. No. 1. He contemporaneously moves for  
22 injunctive relief. *See* Doc. No. 2. Petitioner is a Guatemalan national, who was  
23 previously designated as a lawful permanent resident of the United States. Petitioner  
24 was ordered removed under the Immigration and Nationality Act (“INA”), 8 U.S.C.  
25 § 1227(a)(2)(A)(iii), as an alien convicted of an aggravated felony. Petitioner  
26 reentered the United States after deportation and was arrested. Petitioner is  
27 attempting to reopen his immigration proceedings. He seeks restoration of his status  
28 as a lawful permanent resident and cancellation of removal. As an initial matter,

Petitioner has not paid the \$5.00 filing fee and has not moved to proceed in forma pauperis. A petition must be accompanied by a \$5.00 filing fee or an application to proceed in forma pauperis. *See* Local Rule 3(a), 28 U.S.C. foll. § 2254. Therefore, the petition is subject to dismissal on this ground. Moreover, federal courts are courts of limited jurisdiction. “Without jurisdiction the court cannot proceed at all in any cause.” *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94 (1998). Accordingly, federal courts are under a continuing duty to confirm their jurisdictional power and are even “obliged to inquire sua sponte whenever a doubt arises as to its existence. . . .” *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 278 (1977). This Court lacks subject matter jurisdiction over the petition.

Title 8, section 1252, provides as follows:

no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.

8 U.S.C. § 1252(g). This provision was created to “eliminate[] district court habeas corpus jurisdiction over orders of removal and vest[] jurisdiction to review such orders exclusively in the courts of appeals.” *Puri v. Gonzales*, 464 F.3d 1038, 1041 (9th Cir. 2006), citing *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 928-929 (9th Cir. 2005). “[A] petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of an order of removal.”

8 U.S.C. § 1252(a)(5). Petitioner’s remedy is to file a petition for review in the United States Court of Appeals for the Ninth Circuit,<sup>1</sup> which he has done. *See* Case No. 14-70488.

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<sup>1</sup> “The denial of a motion to reopen falls within our jurisdiction over final orders of removal (not issued in absentia ) under 8 U.S.C. A§ 1252(a)(1), provided that the denial has been separately appealed.” *Lin v. Gonzales*, 473 F.3d 979, 981 (9th Cir. 2007), citing *Azarte v. Ashcroft*, 394 F.3d 1278, 1281 (9th Cir.2005); *Sarmadi v. INS*, 121 F.3d 1319, 1321-22 (9th Cir.1997).

1 Based on the lack of subject matter jurisdiction, the Court **DISMISSES** the  
2 petition with prejudice. The Clerk of Court shall terminate all pending motions and  
3 enter judgment accordingly.

4 **IT IS SO ORDERED.**

5 DATED: June 17, 2014



Hon. Michael M. Anello  
United States District Judge